

### REMARKS

Claims 1-14, 20-26, 29 and 30, drawn to a plant cultivation system for growing salt-tolerant terrestrial plants in saline water, are pending in the above-identified application. The claims are objected to and rejected as discussed below. Claim 2 is amended to remove without prejudice the recitation of "groundwater" from the claim and to correct a typographical error in "pondwater." Claim 12 is amended to remove the first instance of the word "plastic" from the claims, which was recited twice. Claim 20 is amended to recite "wherein the growth medium comprises the at least one salt-tolerant terrestrial plant, or a plant part or seed thereof." Claim 23 is amended to remove the word "package" from the phrase "growth medium package." Claim 24 is amended to remove the recited phrase "wherein at least a portion of the plant material is contacted by the saline water." No new matter is added by way of these amendments. Upon entry of the response, Claims 1-14, 20-26, 29 and 30 remain pending and are presented for further examination.

#### Objections to the Claims

Claim 24 is objected to for including the limitation of "at least a portion of the plant material is contacted by the saline water." The Office Action asserts that the limitation is redundant, as it is previously recited in Claim 1. Applicants have amended Claim 24 to remove the recited limitation. Accordingly, withdrawal of the objection is respectfully requested.

#### Rejection of Claims Under 35 U.S.C. §112, Second Paragraph

Claims 20-23 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which is regarded as the invention.

In particular, it is asserted that Claim 20 recites growth medium with a plant, plant part or seed; however, it is not clear if the recited plant is in addition to or the same as the plant of Claim 1. Claim 20 is amended to recite "wherein the growth medium recites the at least one salt-tolerant terrestrial plant, or a plant part or seed thereof."

In addition, the Office Action asserts that there is insufficient antecedent basis for the limitation of "the growth medium package" in line 2 of Claim 23. Claim 23 is amended to strike "package" from the phrase "growth medium package."

In view of the foregoing, Applicants respectfully submit that the claims meet the requirements of 35 U.S.C. §112 and request the withdrawal of these rejections.

#### Rejection of Claims Under 35 U.S.C. §103

Claims 1-14, 20-26 and 29-30 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over one of Murray (U.S. Patent No. 4,888,912, hereinafter referred to as “the ‘912 patent”) or Fischer (U.S. Patent No. 2,175,113, hereinafter referred to as “the ‘113 patent”). Applicants respectfully disagree, as discussed below.

#### *Standard for Obviousness*

The Patent and Trademark Office has the burden under section 103 to establish a *prima facie* case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-87 (Fed. Cir. 1984). An essential characteristic of any *prima facie* case of obviousness is that the references, when combined must teach or suggest all the claim limitations. The present rejection fails to make a *prima facie* case of obviousness because the references in combination fail to supply at least one element common to all of the claims in consideration.

#### *The Claims*

The claims are related to plant cultivation systems for growing salt-tolerant terrestrial plants in saline water. The systems include a plant support with a flexible buoyant portion that is buoyant in saline water and at least one salt-tolerant terrestrial plant that is in contact with both the plant support and saline water. Accordingly, Claim 1 recites a plant cultivation system for growing salt-tolerant terrestrial plants in saline water, comprising: (i) a plant support comprising a flexible buoyant portion; and (ii) at least one salt-tolerant terrestrial plant in contact with the plant support, wherein the plant support is buoyant in the saline water, and wherein at least a portion of the plant contacts the saline water. Claims 2-14, 20-26 and 29-30 depend from Claim 1 and contain all the features thereof as well as additional features recited in the claims.

#### *Claims 1-6, 10-14, 34-36 and 29-30 are not obvious over the ‘912 patent*

Claims 1-6, 10-14, 34-36 and 29-30 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murray (U.S. Patent No. 4,888,912, “the ‘912 patent”). Though the Office Action acknowledges that the reference does not disclose the plant as being salt-tolerant,

it is asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to cultivate a salt-tolerant plant with the plant support of the invention, depending on the plant preference of the user. Applicants respectfully disagree.

The '912 patent discloses a system for depleting plant nutrient compounds in open bodies of water by cultivating aquatic plants in a container placed in a body of water. The system includes an aquatic plant support (4) of plastic grated material, which can also be solid instead of grated. To achieve buoyancy, floats (12) are attached either directly to the support or indirectly through a line tied to any point of the support. However, the '912 patent does not teach a system that contains at least one salt-tolerant **terrestrial plant**, nor does the reference teach a plant support comprising a flexible buoyant portion, wherein the plant support is buoyant in the saline water. The Office Action asserts that the '912 patent discloses a plant support comprising a flexible buoyant portion (10), wherein the plant support is buoyant in the saline water. Applicants note that the named component, the phyto-compatible envelope (10), is not buoyant. Instead, the '912 patent teaches that floats used to achieve buoyancy are directly or indirectly attached to the plant support (4), which is not taught as being flexible. Furthermore, the reference discloses that the system is designed for cultivating **aquatic plants**, which are not the same as **terrestrial plants**, as recited in the claims. Aquatic plants live or grow on or under water surfaces, whereas terrestrial plants live or grow on land. There is no teaching or suggestion in the reference to cultivate terrestrial plants in the disclosed system, let alone salt-tolerant terrestrial plants. For at least these reasons, Applicants respectfully submit that the '912 patent does not teach or suggest all the limitations of the claimed subject matter.

In view of the foregoing, Claim 1 and dependent Claims 2-6, 10-14, 34-36 and 29-30 are not obvious over the '912 patent. Withdrawal of the rejection is thus respectfully requested.

*Claims 1, 7-9 and 20-23 are not obvious over the '113 patent*

Claims 1, 7-9 and 20-23 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fischer (U.S. Patent No. 2,175,113, "the '113 patent"). Though the Office Action acknowledges that the reference does not disclose the water as being salt water or the plant as being salt-tolerant, it is asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to use a salt-tolerant plant in salt water with the plant

cultivation system of Fischer and to cultivate a salt-tolerant plant with the plant support of the invention, depending on the plant preference of the user. Applicants respectfully disagree.

The '113 patent discloses a seed germinating wafer for the purpose of seed testing as to the germination qualities. The wafer is made up of one or two discs of a floatable material such as cork. However, the reference does not teach or suggest a plant cultivation system comprising a **flexible** buoyant portion, nor does it teach or suggest that the system comprise a salt-tolerant **terrestrial plant**, as claimed. In particular, the example of cork as a floatable material, which is not flexible, does not provide any indication that the floatable material used for the wafer would be flexible at all. Furthermore, there is no teaching or suggestion in the reference to use the wafers to cultivate **terrestrial plants**, let alone salt-tolerant terrestrial plants. For at least these reasons, Applicants respectfully submit that the '113 patent does not teach or suggest all the limitations of the claimed subject matter.

In view of the foregoing, Claim 1 and dependent Claims 7-9 and 20-23 are not obvious over the '113 patent. Withdrawal of the rejection is thus respectfully requested.

#### Conclusion

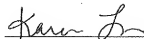
Applicants submit that the present Application is in condition for allowance and respectfully request the same. If any issues remain, the Examiner is cordially invited to contact Applicants' representative at the number provided below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 04-0258.

Respectfully submitted,

Dated: December 18, 2008

By: \_\_\_\_\_



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